



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Georg PLETZER
Joachim WAEGNER
Heinrich LACKENBERG

Examiner: T. Beach

Serial No.: 10/049,925

Group: 3600

Filing Date: 26 July 2002

Title: METHOD AND CONSTRUCTION
MACHINE FOR PRODUCING
GROUND SURFACES

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
OFFICE ACTION NOT RECEIVED**

Mail Stop PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

We hereby petition to withdraw the holding of abandonment in the referenced Patent Application, on the basis that the Office Action forming the basis of the abandonment was not received.

The undersigned attorneys hereby state that the Office Action mailed on 12 October 2006, was not received by Pauley Petersen & Erickson (attorneys for

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

07 September 2007

07 Sept 2007
Date

[Signature]
Signature

Serial No.: 10/049,925

Applicant/Assignee Georg Pletzer) or CNH America LLC (previous Assignee). The abandonment of this unpublished Patent Application was determined by a telephone call to the U.S. Patent and Trademark Office (USPTO) by attorney Mark D. Swanson of Pauley Petersen & Erickson. After learning of the abandonment, Mr. Swanson called Examiner Beach who indicated that: 1) the Office Action had been mailed to a Jeffrey Preston Nelson, PO Box 712, Anna Marie, FL 34216; and 2) that Mr. J. William Stader is the current attorney of record. The attached copy of the Office Action and the Notice of Abandonment, both bearing the incorrect mailing address of an unknown Jeffrey Preston Nelson were forwarded to Mr. J. William Stader of CNH America LLC by Examiner Beach to support this Petition.

The undersigned attorneys additionally state that a search of his respective file jackets and docket records in his respective office indicates that the Office Action was not received. A copy of each attorney's docket record where the non-received Office action would have been entered for responding by 12 January 2007 would have been entered had it been received and docketed.

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Incorrect Power of Attorney

In addition to the reinstatement of this Patent Application, the undersigned attorneys request the Petitions Office to correct the power of attorney for this Patent Application. Examiner Beach has told each of the undersigned attorneys that Mr. J. William Stader (CNH America LLC) is the attorney of record, and both Mr. Stader and Pauley Petersen & Erickson believe this is incorrect. The attorneys at Pauley Petersen & Erickson are the proper attorneys of record. The undersigned attorneys have been unable to obtain from the USPTO a copy of the Power of Attorney the USPTO claims was filed on 05 April 2006.

On 15 September 2005, Applicant/Assignee Georg Pletzer filed a Power of Attorney document revoking CNH America LLC's power of attorney and appointing Pauley Petersen & Erickson as his attorneys of record. Pauley Petersen and Erickson subsequently received a Notice Regarding Change of Power of Attorney dated 18 April 2006 indicating a new Power of Attorney had been filed for this Patent Application revoking Pauley Petersen & Erickson's power. Mr. Pletzer confirmed for Mr. Swanson that he executed no further power of attorney change.

Attorney Mark Swanson tried to obtain an explanation from the USPTO regarding the 18 April 2006 power of attorney change, but no one at the USPTO, including the person who signed the Notice Regarding Change of Power of Attorney dated 18 April 2006, would explain who revoked Pauley Petersen and Erickson's

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power of attorney. Mr. Swanson filed a written Communication with the USPTO requesting clarification/correction of the power of attorney, and received no response.

During the conversation with Examiner Beach about the mailing address of the Office Action, Examiner Beach told Mr. Swanson that the attorney of record was Mr. J. William Stader of CNH America LLC, due to the Power of Attorney filed on 05 April 2006. Examiner Beach also said Mr. Stader signed the Power of Attorney himself, and Examiner Beach agreed with Mr. Swanson that it is unusual for a Power of Attorney document to be executed by the attorney receiving the Power of Attorney. Examiner Beach was unable to provide Mr. Swanson with a copy of any document of record.

The Examiner could not explain why the Office Action and Notice of Abandonment were mailed to Jeffrey Preston Nelson. Mr. Swanson spoke with Mr. Stader, and Mr. Stader had no record of receiving the Office Action. Mr. Jeffrey Preston Nelson has no known affiliation with Pauley Petersen & Erickson or CNH America LLC.

Attached hereto are a copy of the (1) misaddressed Office Action, mailed 12 October 2006, (2) misaddressed Notice of Abandonment, mailed 17 May 2007, (3) a copy of the Power of Attorney for Pauley Petersen & Erickson, mailed 15 September 2005, (4) a postcard with USPTO stamp indicating receipt of the power of attorney on 19 September 2005.

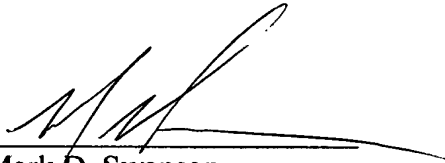
Serial No.: 10/049,925

In consideration of these submissions, it is respectfully requested that:

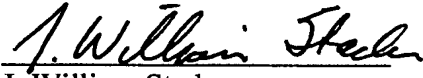
1) the holding of abandonment be withdrawn; and 2) that the power of attorney be correctly given to the attorneys of Customer number 42419 per the Power of Attorney dated 15 September 2005.

No fee is believed to be due for this Petition. If the Commissioner determines a fee is required, the Commissioner is authorized to charge the required fee deficiency to Deposit Account 19-3550.

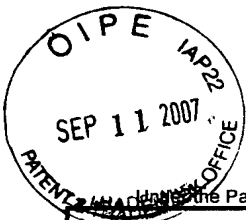
Both attorneys sign below as neither is sure who is the current attorney of record. Attorney Mark Swanson is available by telephone at (847) 490-1400 to answer any question.



Mark D. Swanson
Registration No. 48,498
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J. William Stader
Registration No. 38,765
CNH Intellectual Property Law Dept.
CNH America LLC
500 Diller Ave
PO Box 1895 MS 641
New Holland, Pennsylvania 17557
TEL (717) 355-3411

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Georg Pletzer et al.Application No./Patent No.: 10/049,925 Filed/Issue Date: 26 July 2002Entitled: METHOD AND CONSTRUCTION MACHINE FOR PRODUCING GROUND SURFACES

Georg Pletzer, a individual
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____ %
in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Georg Pletzer et al. To: O & K Orenstein & Koppel AG
The document was recorded in the United States Patent and Trademark Office at
Reel 013279, Frame 0957, or for which a copy thereof is attached.
CNH Baumaschinen GmbH
2. From: (Formerly O & K Orenstein & Koppel AG) To: Georg Pletzer
The document was recorded in the United States Patent and Trademark Office at
Reel 016995, Frame 0280, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

07 September 2007

Date

(847) 490-1400

Telephone number

Mark D. Swanson

Typed or printed name

[Signature]
SignatureAssignee's Attorney

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

9/5/2007

Patent Information Print

Docket No	18028	Parent Country	
Country	United States	Sub Stat	Closed
Case Type	Regular	Status	Inactive
Relation Type	Original Filing	Total Claims	
Filing Type	National	Ind. Claims	
Filing No		Expiration Dt	
Attorney	John William Stader	Assigned	
Agent		Attorney 2	
GPL	INDUSTRIAL/CONSTRUCTION	Previous Owner	
Current Owner	CNH BAUMASCHINEN GmbH	Office Loc	New Holland records
Product		Joint Venture	
Maintenance Value		Plant Location	
Next Tax Dt		Cust Num	32960 CNH ISSUED PATENTS
Tax Base Dt		Lib Cat 1	
Publication Dt		Lib Cat 2	
Grant Dt		Lib Cat 3	
Application Dt	9/21/2004	Ag Ref No	
Parent Grant Dt		Product Group	
Parent Filing Dt		Verified	N
Sub Stat Dt	3/18/2005	Customer	JIPP
First Filing Dt	8/21/1999	Create Dt	3/18/2005
Conv Type	PCT Convention	Update Dt	9/29/2005
Publication #		Update Tm	1127
Patent No		Update User	SJM
Application #	10/049925	Update Type	
Parent No			

Actions

Action	Foreign Filing - 6 Month Rem	Comp Dt
Act Due Date	2/21/2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		

Action	Foreign Filing - 9 Month Rem	Comp Dt
Act Due Date	5/21/2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		

Action	Foreign Filing - 11 Month Re	Comp Dt
Act Due Date	7/21/2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		

Action	Foreign Filing Deadline	Comp Dt
Act Due Date	8/21/2000	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		

Action	Info Discl. Statement	Comp Dt
Act Due Date	12/21/2004	Resp Atty #1
Taken Dt		Resp Atty #2
DeadLn Dt		

Description

Description

08AU2005 TRANSFERRED BACK TO INVENTOR.
 02SE2005 ORIGINAL FILE SENT VIA FED EX TO:
 MARK D. SWANSON, ESQ.
 PAULEY, PETERSEN & ERICKSON
 2800 WEST HIGGINS ROAD
 SUITE 365
 HOFFMAN ESTATES, IL 60195-5233
 TELEPHONE: 847-490-1400
 FACSIMILE: 847-490-1403

Inventors

Assigned

Inv Name
Assigned

Inventor

WAEGNER, JOACHIM

Inv Name
Assigned

Inventor

LACKENBERG, HEINRICH

****Other No's****

Other No Cd
Other No

Reference Number - Europe
IN-054

Other No Dt

****Related Id****

System
Docket No
Ctry
CS Type

Patent

RL Type
Filing Type
Filing No
Remarks

P

PCT/EP00/06660

System
Docket No
Ctry
CS Type

Patent

GERM

RL Type
Filing Type
Filing No
Remarks

199 39 796.1

****Title****

Title

METHOD AND CONSTRUCTION MACHINE FOR PRODUCING GROUND SURFACE
S

7	GTI-8017 [no per client] GTI-8018 [no per client] HAMC-103 [move to 02-07-07] PK-103 [move to 02-07-07] Filing Date [move to 02-07-07] VO-744 IDS [move to 02-07-07] VO-740 IDS [move to 02-07-07] VON-30 IDS [move to 02-07-07]	8	FD-124 [cm 01-08-07] VO-771 [cm 01-08-07] KCC-1208 [move to 02-08-07] Action (1x) [move to 02-08-07] KCC-1208 [move to 02-08-07] AAI-14194 [cm 01-08-07] BW-101-D [move to 02-08-07] HYI-01-103-CA [move to 01-17-07] [by KCC] KCC-2092-KR Fees AAI-14151-CN [fax/mail 01-08-07] FEL-141 [move to 02-08-07] KCC-1077-CN [fax/mail 12-26-06] KCC-2196-AU [fax/mail 01-08-07] KCC-1168-AU [fax/mail 01-08-07] KCC-1157-AU [fax/mail 01-08-07] KCC-1165-AU [fax/mail 01-08-07]	9	NA-155 [move to 01-17-07] FMC-1057-EP [fax/mail 01-08-07] DWP-103-D [move to 02-09-07] KCC-2156-KR [move to 01-18-07]	10	GRI-8087 [rec'd Notice of Acceptance] PRL-101 [move to 02-10-07] NA-167 [move to 02-10-07] KCC-2096-KR [fax/mail 12-29-06] HAMC-103 [move to 01-24-07] Foreign Filing	11	PODD-8002 [rec'd Notice of Allowance] NA-8037 [rec'd Notice of Allowance] RJS-8003 [rec'd Notice of Publication] IIT-195-DIV Application [move to 02-11-07] MMG-126-DIV [move to 02-11-07] VO-741 Response FMC-1055-EP [move to 02-11-07] FMC-1055-EP [move to 02-11-07] CRPI-103 [move to 02-11-07] VO-421 Petition TARGET NA-162 [move to 02-11-07] KCC-1124-CN [fax/mail 12-26-06] NOS-116 [e-mail 01-11-07]	12	CD-8021 [rec'd OA] VO-658 [cm 11-29-06] KCC-2105-DIV [cm 01-11-07] UMB-01-009-DIV (1x) [cm 01-11-07] UMB-01-009-DIV Interview Summary [cm 01-11-07] KCC-1149-KR [by KCC] VO-770 [cm 01-02-07] KCC-2076-EP [move to 01-26-07]	13	VO-385 [client handling] NOS-8101 [rec'd OA] AAI-14401-PCT [move to 02-13-07] ARZ-101-C Priority [cm 01-10-07] KCC-2217 [cm 01-11-07] KCC-1221 [cm 01-11-07] HI-P02031US [fax 01-16-07] HI-P02031US [move to 02-13-07] HI-P02031US Advisory Action [move to 02-13-07] KCC-1207 [cm 01-15-07] KCC-1186 [cm 12-13-06] CD-152 [cm 01-16-07] IIT-212 [move to 02-13-07] CD-150 [cm 01-16-07] KCC-2190-CIP1 [fax 01-11-07] VO-737 [move to 02-13-07] VO-719 [move to 02-13-07] KCC-1214 [cm 01-11-07]	MF Status Check Issue Fee Response Response Response Issue Fee IDS (from ISR) AAFR Appeal Reply to Response Response Resp to Msg Pts Resp to Msg Pts AAFR 2nd IDS Record Assign w/ PTO IDS
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Paulley Peterson & Erickson's docket calendar for January 12, 2007.
MMG-133 (10/049,925) not entered because Office Action was never received.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,925	09/21/2004	Georg Pletzer		9284

32980 7590 10/12/2006

JEFFREY PRESTON NELSON
PO BOX 712
ANNA MARIA, FL 34216

EXAMINER

BEACH, THOMAS A

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/049,925	PLETZER ET AL.	
	Examiner	Art Unit	
	Thomas A. Beach	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 6 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5 and 7-12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 4 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Berger et al 6,061,617. Berger shows a method for producing ground surfaces by means of a construction machine, in particular a hydraulic excavator with an excavator comprised of one single or a multitude of components including a shovel applicable to the surface of the ground (abstract), and a lifting cylinder for lifting and lowering the excavator equipment; whereby the lifting cylinder 234 of the excavator equipment is actively connected with a least one work pump via a control device 100/130/160 actuated by the operator; and whereby the lifting cylinder is lifted, lowered or blocked depending on the switching position of the control device; characterized in that for compensating the weight of the excavator equipment and for adjusting an approximately (col. 10, lines 49-61) constant pressure of application of the shovel to the surface of the ground as the excavator equipment is moving and working, the lifting side of the lifting cylinder, upon actuation of an actuating element, is automatically acted upon by an adjustable compensation pressure by supplying or evacuating a hydraulic medium.

As concerns claim 4, Berger shows that the position of the point of gravity of the excavator equipment is monitored and the compensation pressure is automatically adapted to any shift in the position of the point of gravity (col. 10, lines 49-61).

Allowable Subject Matter

4. Claims 2, 3, 5, and 7-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Beach whose telephone number is 571.272.6988. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571.272.6998. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Application/Control Number: 10/049,925

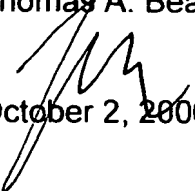
Page 5

Art Unit: 3671

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas A. Beach


October 2, 2006

THOMAS A. BEACH
Primary Examiner
Group 3600



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,925	09/21/2004	Georg Pletzer		9284

32980 7590 05/17/2007
JEFFREY PRESTON NELSON
PO BOX 712
ANNA MARIA, FL 34216

EXAMINER

BEACH, THOMAS A

ART UNIT	PAPER NUMBER
----------	--------------

3671

MAIL DATE	DELIVERY MODE
-----------	---------------

05/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment

Application No.

10/049,925

Examiner

Thomas Beach

Applicant(s)

PLETZER ET AL.

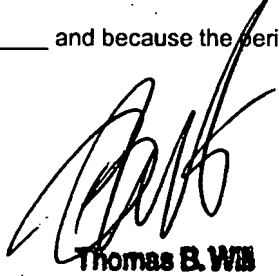
Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 12 October 2006.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


Thomas B. Williams
Supervisory Patent Examiner
Group 3600

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Georg PLETZER
Joachim WAEGNER
Heinrich LACKENBERG



Serial No.: 10/049,925

Filing Date: 26 July 2002

Title: METHOD AND CONSTRUCTION MACHINE
FOR PRODUCING GROUND SURFACES

**POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST
AND REVOCATION OF PRIOR POWERS**

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

As Applicant and Assignee of the entire interest of the above-identified U.S. Patent Application, all powers of attorney previously given are hereby revoked and the attorneys associated with the Customer Number 42419 are hereby appointed to transact all business in the U.S. Patent and Trademark Office connected therewith.

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on

15 September 2005

15 September 2005
Date

A handwritten signature in black ink, appearing to read "Mark H. Smith".

Signature

MMG-133

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MDS/csh/I

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Serial No.: 10/049,925

SEND CORRESPONDENCE TO:

DIRECT TELEPHONE CALLS TO:

Douglas H. Pauley
Pauley Petersen & Erickson
2800 W. Higgins Road, Suite 365
Hoffman Estates, IL 60195
Fax: (847) 490-1403

Douglas H. Pauley
(847) 490-1400

Please change the Attorney Docket Number to MMG-133.

The undersigned to this power of attorney hereby authorizes the U.S. attorneys named above to accept and follow instructions from

Müller-Gerbes Wagner Albiger
Patentanwältin
European Patent & Trademark Attorneys
Friedrich-Breuer-Strasse 112
D-53225 Bonn
Germany

as to any actions to be taken in the U.S. Patent and Trademark Office regarding this U.S. Patent Application without direct communication between the U.S. attorneys and the undersigned. In the event of a change in the persons from whom instructions may be taken, the U.S. attorneys will be so notified by the undersigned.

Applicant Georg PLETZER is the Assignee of the entire interest of the invention defined by the referenced U.S. Patent Application, as evidenced by a copy of the enclosed Assignment document from CNH Baumaschinen GmbH to Georg

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Serial No.: 10/049,925

PLETZER. A copy of the executed Assignment document and an original, executed Statement Under 37 CFR 3.73(b) are enclosed.

Georg PLETZER

Signature:

Georg Pletzer

Name:

G. Pletzer

Date:

09.08.2005

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400 FAX (847) 490-1403

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PTO/SB/96 (04-03)

Approved for use through 04/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Georg Pletzer et al.

Application No./Patent No.: 10/049,925 Filed/Issue Date: 26 July 2002

Entitled: METHOD AND CONSTRUCTION MACHINE FOR PRODUCING GROUND SURFACES

Georg Pletzer, a individual
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____ %
in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Georg Pletzer et al. To: O & K Orenstein & Koppel AG
The document was recorded in the United States Patent and Trademark Office at
Reel 013279, Frame 0957, or for which a copy thereof is attached.
CNH Baumaschinen GmbH
2. From: (Formerly O & K Orenstein & Koppel AG) To: Georg Pletzer
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

15 September 2005
Date
(847) 490-1400
Telephone number

Mark D. Swanson
Typed or printed name
[Signature]
Signature
Assignee's Attorney
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Attorney Docket No. IN-054

ASSIGNMENT

For good and valuable consideration, CNH Baumaschinen GmbH having an address at Staakener Strasse, 53-63, D-13581 Berlin (Spandau) Germany, formerly know as O&K Orenstein & Koppel GmbH, also formerly known as O&K Orenstein & Koppel AG with an address at Karl-Funke-Strasse 30, D-44149 Dortmund, Germany, ("assignor")

hereby sells, assigns and transfers to Herrn Georg Pletzer having an address of Am Pappelbusch, 49, D-44809 Bochum, Germany ("assignee"), any successors and assigns, the entire United States right, title and interest for "**Method and Construction Machine for Producing Ground Surfaces**" described in U.S. Patent Application No. 049925, (PCT/EP 00/06.660 – WO 01/14.648) filed September 21, 2004 and subject to the assignment recorded on reel 013279 and frame 0957, and any and all United States applications for patent and patents granted therefore, including all divisions, reissues, continuations, reexaminations, and extensions therefore, and all right of priority resulting from the filing of said U.S. patent application,

and

authorize and request that any and all United States patents for said improvements be issued to said assignee, or its successors or assigns,

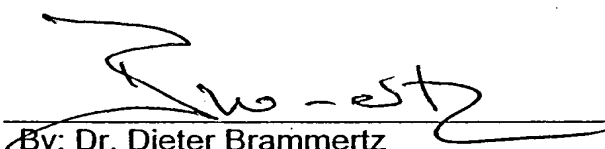
and

covenant that we have full right so to do.

CNH Baumaschinen GmbH

Date:

20 July 2005


By: Dr. Dieter Brammertz
Title: Managing Director

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✓ Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

P400/clb

Please affix the USPTO receipt stamp hereon as evidence of receipt of the following enclosed papers.

- Power of Attorney by Assignee of Entire Interest and Revocation of Prior Powers (3 pages)
- Copy of an executed Assignment document (1 page)
- Original executed Statement Under 37 CFR 3.73(b)

All by Certificate of Mailing dated 15 September 2005.

Applicants: Georg PLETZER et al.
Serial No.: 10/049,925
Filing Date: 26 July 2002
Title: METHOD AND CONSTRUCTION MACHINE FOR
PRODUCING GROUND SURFACES



MMG-133

Mark D. Swanson

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